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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN FELIX ARZOLA,

Defendant and Appellant.

B214682

(Los Angeles County
Super. Ct. No. BA056188)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Bob S. Bowers, Jr., Judge. Affirmed.

Donna L. Harris, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Keith H. Borjon and Sharlene A. Honnaka, Deputy Attorneys General, for Plaintiff and Respondent.

A jury convicted Juan F. Arzola of first degree murder, with a finding that he had personally used a firearm during the commission of the offense. We affirm.

FACTS

In 1992, Gino Orange's body was found in Lafayette Park; he had been killed as a result of a gunshot wound to his head. Los Angeles Police Department Detective John Curiel investigated the murder. During the course of Detective Curiel's investigation in 1992, two eyewitnesses, Brigitte Frye and Sylvia Mejia, both of whom were addicted to crack cocaine, identified Arzola as the shooter from a photo line-up.

In December 2004, the People filed an information charging Arzola with murder, with an allegation that he personally used a firearm during the commission of the offense. At trial in 2005, the only issue disputed was the identity of the shooter. Mejia identified Arzola; Frye was unable to identify Arzola. Another witness saw Arzola leave the scene on the night Orange was shot, but did not witness the shooting. On April 20, 2005, a jury convicted Arzola of first degree murder, with a finding that he personally used a firearm during the commission of the offense.

In August 2006, we conditionally reversed Arzola's conviction for *Pitchess*¹ error related to Detective Curiel. (*People v. Arzola* (Aug. 9, 2006, B183397) [nonpub. opn.].) We remanded Arzola's case to the trial court with these directions: "The trial court shall conduct an in-camera review of the documents in [Detective] Curiel's personnel file. [¶] If there is discoverable evidence and Arzola can show prejudice, the conviction shall be deemed reversed and the trial court shall order a new trial. [¶] If there is no discoverable evidence or if Arzola cannot establish prejudice, the court should reinstate its judgment of conviction"

On September 14, 2006, the trial court discussed the scope of the *Pitchess* matter with counsel for the Los Angeles Police Department (LAPD) and Arzola, following which the court directed the LAPD's custodian of records to conduct a search for a range of types of documents. On September 28, 2006, the court conducted an in-camera

¹ See *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

hearing and ordered LAPD's custodian of records to provide information to the court on six matters relating to Detective Curiel. On October 16, 2006, the court delivered a packet of sealed records to Arzola's counsel.

Almost one year later, on September 24, 2007, the trial court entered an order noting that Arzola's counsel had not filed any motions or other documents offering a reasonable probability that there was any admissible evidence in the *Pitchess* materials, and pronouncing that Arzola's conviction would, for that reason, be reinstated.

Although not included in the record before us today, we know from other sources found in the record that Arzola's counsel filed a motion to set aside the trial court's order reinstating Arzola's conviction, and requesting to file a motion for supplemental *Pitchess* discovery. On January 11, 2008, the trial court granted Arzola's motion.

On March 6, 2008, Arzola filed his motion for supplemental *Pitchess* discovery. Arzola's supplemental *Pitchess* motion sought further records related to the six matters disclosed. On March 28, 2008, the LAPD filed an opposition, under seal, to Arzola's motion for supplemental *Pitchess* discovery. In it, LAPD argued that the information previously provided was sufficient to allow the defense to conduct an investigation into possible grounds for a motion for new trial.

On April 22, 2008, the trial court met again with LAPD's custodian of records, in camera, and ordered the disclosure of additional documents. On September 19, 2008, the court confirmed its order for the disclosure of the additional information.

At a hearing on March 6, 2009, Arzola's counsel outlined for the trial court the scope of the defense investigation of the matters disclosed by the *Pitchess* discovery. As to each matter, Arzola's counsel advised the court that nothing had been found to suggest that Detective Curiel had done anything wrong. Arzola's counsel also advised the court that the defense investigation of the witnesses in Arzola's case — Frye and Mejia — established that they had not been sought out by Detective Curiel, and that they had not been pressured to identify Arzola as the shooter. In summing up, Arzola's counsel advised the court that “nothing improper” had been found on the detective's part, and that the defense would not be filing a motion for new trial because there were no

legal or factual grounds to support such a motion. At the end of the hearing the trial court reinstated Arzola's conviction.

Arzola filed a timely notice of appeal.

DISCUSSION

Arzola's appeal consists of a request to our court to conduct an independent review the *Pitchess* proceedings in the trial court for error. (See *People v. Mooc* (2001) 26 Cal.4th 1216.) We have reviewed the record of the proceedings which transpired in the trial court following our prior opinion in Arzola's case, including a sealed reporter's transcript of the trial court's in camera review of additional documents. Based upon our review of the record, we conclude the trial court's orders concerning the disclosure of *Pitchess* materials were correct, and that no further disclosures were warranted.

DISPOSITION

The judgment is affirmed.

BIGELOW, P. J.

We concur:

RUBIN, J.

FLIER, J.